

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

MACA.No. 3057 of 2014 ()

AGAINST THE AWARD IN OPMV 1580/2009 of II ADDL.D.C. & ADDL.MACT,
KOLLAM, DATED 23-06-2014

APPELLANT/PETITIONER:-

BHARGAVAN PILLAI
S/O.RAGHAVAN PILLAI, ARUNODHAYAM, CHANGANKULANGARA
OACHIRA VILLAGE, KARUNAGAPPALLY TALUK.

BY ADVS.SRI.K.SIJU
SMT.S.SEETHA

RESPONDENT/2ND RESPONDENT:-

THE DIVISIONAL MANAGER
M/S.THE NEW INDIA ASSURANCE COMAPNY LTD.
KOLLAM - 691 001.

BY ADV. SRI.A.A.ZIYAD RAHMAN (BY ORDER)
BY ADV. SMT.M.HEMALATHA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kvs/-

P.B.SURESH KUMAR, J.

M.A.C.A. No.3057 of 2014.

Dated this the 18th February, 2015.

J U D G M E N T

The claimant in an original petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The claimant is a Taxi Driver. The accident took place on 19.8.2008. The claimant was aged 50 years at the time of accident. A sum of Rs.1,00,000/- was claimed in the original petition by way of compensation for the injuries sustained by the claimant. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.36,462/- by way of compensation and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy at the time of accident, the insurer was directed to satisfy the award. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the claimant and

the learned counsel for the insurer.

4. Ext.A6 is the Wound Certificate of the claimant. Exhibit A7 is the Discharge Card issued to the claimant from the hospital where he was admitted and treated for the injuries sustained by him. The Tribunal noticed that the claimant sustained various injuries in the accident including fracture of lateral border of clavicle and 7th rib. The Tribunal also noticed that the claimant was treated as an inpatient for two days,

5. A sum of Rs.10,500/- was granted by the Tribunal to the claimant by way of compensation towards loss of earnings for a period of three months, reckoning his monthly income at Rs.3,500/-. As noticed above, the accident took place in the year 2008. In the nature of the injuries sustained by the claimant, according to me, he is entitled to compensation for loss of earnings for a period of three months, reckoning his monthly income at Rs.5,000/-. The claimant is therefore entitled to a further sum of Rs.4,500/- towards compensation on that head. Towards loss of amenities and enjoyments in life, the Tribunal has granted only a sum of

Rs.5,000/- as compensation. The claimant being a taxi driver, in the nature of the injuries sustained by him, I am of the view that the claimant is entitled to a further sum of Rs.10,000/- towards compensation towards loss of amenities and enjoyments in life.

6. In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.14,500/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest also for the enhanced compensation at the same rate at which the interest was awarded by the Tribunal for the compensation granted.

Sd/-P.B.SURESH KUMAR, JUDGE.

Kvs/-

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PA TO JUDGE.